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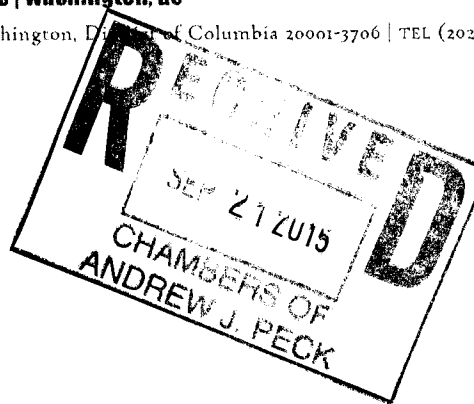
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September 21, 2015

Hon. Andrew J. Peck
 United States Magistrate Judge
 500 Pearl Street, Courtroom 20D
 New York, New York 10007



Re: Rio Tinto v. Vale, et al., Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Peck:

We write briefly in response to Vale's letter of September 18 (Dkt. No. 360) in opposition to Rio Tinto's motion to stay Your Honor's order of September 10 (Dkt. No. 354). The merits (and Rio Tinto's likelihood of success on them) already had been discussed at length in the extensive briefing on this issue, and Rio Tinto saw no need to further burden the Court by repeating them. Likewise, the irreparable harm of having to produce privileged material is obvious. Rio Tinto nonetheless writes to provide the Court with a few additional facts it hopes will put this issue, especially Vale's complaints that Rio Tinto has not met its production obligations or that its depositions of the UK investigators will somehow be "truncated," to bed:

1. Rio Tinto has produced **645 documents** (not including families and in addition to the investigator reports themselves) reflecting communications with the UK investigators, many of which include lawyers. As Rio Tinto said it would, it has produced these documents because they contain non-privileged factual information.
2. Rio Tinto is withholding **16 documents** (all of which it has logged)¹ with the UK investigators subject to the sealed orders, all within the statute of limitations period and all with counsel in preparation of this lawsuit. It is wholly unsurprising that Rio Tinto's lawyers communicated with the investigators about their reports in preparing this suit. Those are the communications Rio Tinto has withheld, and they are privileged.

Therefore, for the all reasons Rio Tinto has argued, Rio Tinto requests that the Court modify its order as requested or stay the order while Rio Tinto appeals to Judge Berman if necessary.

Respectfully submitted,

/s/ Michael Lyle
 Michael Lyle

MEMO ENDORSED 9/21/15

Denise [unclear] to [unclear] [unclear]
order

¹ The 16 documents represent 8 unique documents. Rio Tinto recorded all of them on its privilege log because they do not have identical hash values and therefore cannot be de-duplicated under the ESI protocol (Dkt. No. 82)

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SO ORDERED:

Hon. Andrew J. Peck
 United States Magistrate Judge

BY ECF

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Sage [unclear]